IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6054 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DHUDABHAI KADABHAI SOLANKI - Petitioner(s)

Versus

DEPUTY LABOUR COMMISSIONER & 1 - Respondent(s)

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Appearance :

MR MUKESH H RATHOD for Petitioner No(s).: 1.

MS HANSA PUNANI A.G.P. for Respondent No(s).: 1.

MR VH DESAI for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 09/08/2005

ORAL JUDGMENT

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1. The petitioner has challenged the order dated 10th June, 1993 passed by the Conciliation Officer, whereby the Conciliation Officer has declined to refer

the dispute to the Competent Court on the ground of delay.

2. The short facts of the case are that the petitioner was working as a Conductor with the respondent Corporation and he is working as such since last 18 years. It is the case of the petitioner that the respondent has retrenched his services and then again reinstated him in service. It is further the case of the petitioner that though he was entitled for the new pay scale as per the settlement arrived at between the Corporation and the Union on 3rd January, 1978, the same is not granted to him.

2.1. Feeling aggrieved by the said action of the respondent the petitioner raised an industrial dispute by way of strike notice with demand u/s. 22 of the Industrial Disputes Act, 1947. Pursuant to that the Conciliation Officer initiated conciliation proceedings. Since there was no settlement between the parties, the Conciliation Officer submitted a failure report to the concerned authority. However, the conciliation officer under Section 12(4) of the Industrial Disputes Act, 1947 has refused to refer the dispute to the Industrial Tribunal. Hence, this petition.

3. Mr. Mukesh H Rathod learned advocate for the petitioner has submitted that the Conciliation Officer has committed an error in refusing to refer the dispute on the ground of delay *inasmuch* as the duty of the Officer was to submit the failure report and the appropriate authority ought to have considered the same. He has submitted that by doing so the Officer has travelled beyond the scope and powers, and therefore, the impugned order is required to be quashed and set aside.

4. I have gone through the relevant papers of the matter. On the facts of the case, I am of the view that the Officer has travelled beyond the powers conferred upon him. It is clear that there is no prescribed period of limitation under the Industrial Disputes Act.

5. In the premises aforesaid, the petition is allowed. The impugned order is quashed and set aside. The competent officer shall refer the dispute to the Industrial Tribunal/Labour Court and the Industrial Tribunal/Labour Court shall take appropriate decision within a period of one year from the date of receipt of writ of Reference. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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